



# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



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LINDA S. ADAMS  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

ARNOLD SCHWARZENEGGER  
GOVERNOR

Certified Mail: 7000 0600 0027 1155 2659

June 3, 2009

Ms. Jill Yeager, Director  
Madera County Environmental Health  
2037 W. Cleveland Avenue MS-E  
Madera, California 93637

Dear Ms. Yeager:

The California Environmental Protection Agency (Cal/EPA), California Emergency Management Agency, and the State Water Resources Control Board conducted a program evaluation of the Madera County Environmental Health Certified Unified Program Agency (CUPA) on April 22 and 23, 2009. The evaluation was comprised of an in-office program review, and field oversight inspections, by State evaluators. The evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff. The Summary of Findings includes identified deficiencies, a list of preliminary corrective actions, program observations, program recommendations, and examples of outstanding program implementation.

The enclosed Evaluation Summary of Findings is now considered final and based upon review, I find that Madera County Environmental Health's program performance is satisfactory with some improvement needed. To complete the evaluation process, please submit Deficiency Progress Reports to Cal/EPA that depict your agency's progress towards correcting the identified deficiencies. Please submit your Deficiency Progress Reports to Kareem Taylor every 90 days after the evaluation date. The first deficiency progress report is due on July 22, 2009.

Cal/EPA also noted during this evaluation that Madera County Environmental Health has worked to bring about a number of local program innovations, including its involvement with the Childhood Lead Poisoning Prevention Program. We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program website to help foster a sharing of such ideas statewide.

Ms. Jill Yaeger  
Page 2  
June 3, 2009

Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at [jbohon@calepa.ca.gov](mailto:jbohon@calepa.ca.gov).

Sincerely,

[Original Signed by Don Johnson]

Don Johnson  
Assistant Secretary  
California Environmental Protection Agency

Enclosure

cc: Sent via email:

Ms. Ann Rolan, CUPA Manager  
Madera County Environmental Health  
2037 W. Cleveland Avenue MS-E  
Madera, California 93637

Mr. Terry Snyder  
State Water Resources Control Board  
P.O. Box 944212  
Sacramento, California 94244-2102

Mr. Jeff Tkach  
Governor's Office of Emergency Services  
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Mr. Kevin Graves  
State Water Resources Control Board  
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Sacramento, California 94244-2102

Ms. Terry Brazell  
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Sacramento, California 94244-2102

Ms. Jill Yaeger  
Page 3  
June 3, 2009

cc: Sent via email:

Mr. Charles McLaughlin  
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Ms. Asha Arora  
Department of Toxic Substances Control  
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Mr. Ben Ho  
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Mr. Brian Abeel  
California Emergency Management Agency  
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Mr. Charley Hurley  
California Emergency Management Agency  
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Enclosure



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## **CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS**

### **CUPA: Madera County Environmental Health**

**Evaluation Date: April 22 and 23, 2009**

### **EVALUATION TEAM**

**Cal/EPA: Kareem Taylor**

**SWRCB: Terry Snyder**

**CalEMA: Jeff Tkach**

This Evaluation Summary of Findings includes the deficiencies identified during the evaluation, program observations and recommendations, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. Questions or comments can be directed to Kareem Taylor at (916) 327-9557.

	<b><u>Deficiency</u></b>	<b><u>Preliminary Corrective Action</u></b>
1	<p>The CUPA failed to exercise a graduated series of enforcement actions on hazardous materials business plan (HMBP) facilities that did not submit business plans and/or annual inventories. The CUPA has implemented informal enforcement (reminder letters and phone calls) on many of these facilities multiple times; however, many facilities remain nonresponsive.</p> <p><b>CCR, Title 27, Section 15200 (a)(9) (Cal/EPA)</b></p>	<p>By October 23, 2009, the CUPA will implement formal enforcement on those facilities that have been nonresponsive to previous requests for business plans and/or annual inventory submittals.</p>
2	<p>The CUPA does not have financial management procedures that includes the following:</p> <ul style="list-style-type: none"><li>• A single fee system in compliance with Title 27, section 15210;</li><li>• A fee accountability program in compliance with Title 27, section 15220; and</li><li>• A surcharge collection and reimbursement program in compliance with Title 27, section 15250.</li></ul> <p><b>CCR, Title 27, Section 15180 (e)(5) (Cal/EPA)</b></p>	<p>By July 23, 2009, the CUPA will complete its financial management procedures that are in compliance with Title 27, section 15180 (e)(5).</p> <p>The CUPA will submit a copy to Cal/EPA along with its first progress report.</p>
3	<p>The CUPA's UST facility files reviewed did not contain plot plans, or plot plans did not have all the required information, or they were not current.</p>	<p>The CUPA will review UST files for the required plot plans and will request plot plans to be submitted or updated during the annual inspections from the UST</p>

Certified Unified Program Agency (CUPA)  
Evaluation Summary of Findings

		<p>owner/operators as necessary.</p> <p>By April 23, 2010, all UST facility files will contain plot plans. Also the CUPA will update its files with the new UST Forms A (Facility Information), B (Tank Information), D (Monitoring) and E (Response). The new forms require additional information that was not on the previous forms. This was part of the new Title 27 regulations adopted last year.</p>
	CCR, Title 23, Section 2632 (d), 2634 (SWRCB)	

**CUPA Representative**

Ann Rolan  
\_\_\_\_\_  
(Print Name)

Original Signed  
\_\_\_\_\_  
(Signature)

**Evaluation Team Leader**

Kareem Taylor  
\_\_\_\_\_  
(Print Name)

Original Signed  
\_\_\_\_\_  
(Signature)

Certified Unified Program Agency (CUPA)  
Evaluation Summary of Findings

**PROGRAM OBSERVATIONS AND RECOMMENDATIONS**

*The observations and recommendations provided in this section address activities the CUPA are implementing and/or may include areas for continuous improvement not specifically required of the CUPA by regulation or statute.*

- 1. Observation:** The CUPA has conducted 12 agricultural handler workshops within the last 2 years in an effort to regulate the handlers that fall within the hazardous materials requirements. The CUPA utilized a 2006 pesticide permit list obtained from the Agricultural Commissioner's Office to contact the agricultural community and has had a 65% response rate so far. According to the CUPA's fiscal year (FY) 2007/2008 self audit, approximately 325 agricultural handlers have not responded. The CUPA notified these facilities of the requirement to submit business plan information, but many have not responded. The self audit stated that these facilities would be inspected and Administrative Enforcement Orders (AEOs) would be issued to those facilities that were required to submit business plan information. So far, no AEOs have been issued to any business plan facilities that failed to respond to past CUPA requests for business plan submittals.

**Recommendation:** Cal/EPA recommends that the CUPA implement formal enforcement in the form of AEOs to business plan facilities that have failed to respond to past CUPA requests for business plan submittals. The violation classification guidance states that failure to submit or implement a business plan after notice is a Class 1 violation. By implementing formal enforcement for Class 1 violations, the CUPA will be following its Inspection and Enforcement Plan that requires an elevation in the enforcement actions for severe or recalcitrant violations.

- 2. Observation:** During review of the CUPA's Envision database, it was discovered that there are two UST record entries for Chase Foothill Petroleum. CUPA staff are unable to delete record entries once an invoice has been issued for them. Because of this, the CUPA was not able to delete the extra entry and instead documented the extra entry as a closed facility. The closed status of the extra entry is not immediately visible and has caused an inspector to enter daily activities data into the closed facility record rather than the open facility record.

**Recommendation:** Cal/EPA recommends that the CUPA contact local IT or Decade Software for assistance in removing duplicative record entries.

- 3. Observation:** Madera County has enacted an ordinance that implements an automatic fee adjustment tied to the Consumer Price Index for Environmental Health Department fees. In July 2008, a 3.3% increase took effect for most Environmental Health programs including CUPA programs.

**Recommendation:** none

- 4. Observation:** The CUPA's website contains the old UST Forms A, B, D, and E (Response Plan). The State Water Resources Control Board (SWRCB) now has Forms A, B, D, and E (Response Plan) in Form-Functional Word format on its website for the CUPA can use for their website. Also the (Form E) on the CUPA's website is the old version.

**Recommendation:** The SWRCB recommends that the CUPA download updated Forms A, B, D, and E from the State Water Resources Control Board's website (SWRCB) at [http://www.waterboards.ca.gov/water\\_issues/programs/ust/forms/index.shtml](http://www.waterboards.ca.gov/water_issues/programs/ust/forms/index.shtml).

Certified Unified Program Agency (CUPA)  
Evaluation Summary of Findings

**EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION**

1. The CUPA has made some dramatic improvements since its 2006 Evaluation. In 2006, the CUPA was cited for 14 deficiencies that were all corrected during the CUPA's deficiency follow-up process. Some of the deficiencies included:

- Not meeting its scheduled inspection frequencies for HMBP, UST, CalARP, and HWG facilities.
- Not implementing the requirements of the HMBP for agricultural handlers.
- Not documenting return to compliance for minor violations.

After evaluating Madera County Environmental Health CUPA in 2009, Cal/EPA found that the CUPA has maintained compliance of the above deficiencies. In addition, the success of the CUPA's outreach to its unregulated agricultural handlers prompted Cal/EPA to request the CUPA manager's participation in the 2008 CUPA Conference Outstanding Program Implementation course.

2. The CUPA has implemented a number of formal enforcement actions against UST facilities cited for significant or recalcitrant violations. Recently, the CUPA began utilizing the AEO formal enforcement option as a means to reduce the economic benefit of violators. Some formal enforcement examples include:

- 5 Red Tags were issued to 2 facilities in FY 2007/2008 for failing to conduct SB 989 testing.
- An AEO that was settled for \$5000 was issued to Chase Foothill Petroleum in 11-1-07 for disabling or tampering with auto leak detection system; for failing to install line leak detection, to appoint an UST designated operator (DO), and to conduct DO monthly inspections.
- An AEO that was settled for \$1000 was issued to Vernon's Chevron in 4-21-08 for disabling or tampering with auto leak detection system.

3. The CUPA staff perform many non-CUPA programs for the County that include: complaints, water program, solid waste, liquid waste, hazmat response, and business license review. Newly hired Environmental Health inspector trainees are required to have on the job training in all Environmental Health disciplines in order to take the Registered Environmental Health Specialist exam.

The half-time CUPA program manager is the primary staff person for UST leak oversight. During FY 2007/2008, the CUPA worked with USEPA to close old UST leak cases. This resulted in 7 leak cases being closed prior to the close of the federal fiscal year. The CUPA program manager is a certified lead-based paint inspector/assessor, and is the only environmental investigator for the Madera County Childhood Lead Poisoning Prevention Program. Another responsibility is the periodic preparation of claims to the UST Cleanup Fund to reimburse Madera County for funding the cleanup of the North Fork Sawmill.

4. The CUPA has an excellent UST permit which contains all the required elements and also provides the due dates for annual monitoring certifications and equipment tests.

Certified Unified Program Agency (CUPA)  
Evaluation Summary of Findings

5. On April 21, 2009, the UST inspector conducted the UST site inspection in a thorough and professional manner and had good rapport with the UST owner/operator and the service technician. He used a detailed and complete inspection checklist to document compliance of all the required elements. His attention to detail and knowledge of code and regulations resulted in an excellent inspection. The inspector did an extensive pre-review of the UST facility file to verify operational compliance and that all the required paperwork was completed correctly and up-to-date. He discovered that the Financial Responsibility (FR) documentation was not current and obtained an updated version from the operator. The inspector also asked the SWRCB oversight inspector for suggestions on how to improve his inspection technique and procedure.